

REMARKS

In response to the final Office Action mailed January 25, 2005, the present application has been carefully reviewed and amended. In conjunction with the accompanying declaration under 37 CFR 1.131, Applicant respectfully requests entry of the present amendment and reconsideration of the application.

*Claim Rejections 35 USC §102*

Claims 1, 5, 7, 9, 13, 14, 17, 18, 20-23, 25-30 and 40-50 stand rejected under 35 USC §102(e) as being anticipated by Coldre (US Publication No. 2004/0060242).

Applicant submits herewith a Declaration by the inventors David T. Zwolinski and Kevin R. Willett under 37 CFR §1.131 establishing conception of the subject matter of the rejected claims prior to the effective date of Coldre and diligent efforts to a reduction to practice by the filing of the present application on October 17, 2003. Applicant respectfully submits the showing of facts are of such character and weight as to establish conception of the invention prior to the effective date of Coldre (July 30, 2003) coupled with due diligence from prior to said date to a subsequent filing of the present application (October 17, 2003). Therefore, Applicant respectfully requests the rejections in view of Coldre be withdrawn.

*Claim Rejections 35 USC §103**Claims 2-4 and 10-12*

Claims 2-4 and 10-12 stand rejected under 35 USC §103 as being unpatentable over Coldre.

In view of the accompanying declaration under 37 C.F.R. 1.131, applicant submits the present rejection cannot be sustained.

*Claim 19*

Claim 19 stands rejected under 35 USC §103 as being unpatentable over Coldre in view of Keeney et. al.

In view of the accompanying declaration under 37 C.F.R. 1.131, applicant submits the present rejection cannot be sustained.

*Claim 8*

Claim 8 stands rejected under 35 USC §103 as being unpatentable over Coldre in view of Theis.

In view of the accompanying declaration under 37 C.F.R. 1.131, applicant submits the present rejection cannot be sustained.

*Claim 15*

Claim 15 stands rejected under 35 USC §103 as being unpatentable over Coldre in view of Mesnel et. al.

In view of the accompanying declaration under 37 C.F.R. 1.131, applicant submits the present rejection cannot be sustained.

*Claim 16*

Claim 16 stands rejected under 35 USC §103 as being unpatentable over Coldre in view of Theis in further view of Mesnel et. al.

In view of the accompanying declaration under 37 C.F.R. 1.131, applicant submits the present rejection cannot be sustained.

*Claim 1, 5 and 6*

Claims 1, 5 and 6 stand rejected under 35 USC §103 as being unpatentable over European Patent Publication No. 0 367 731 (EP '731) in view of Dover.

The examiner asserts "it would have been obvious to provide European Patent Publication No. 0 367 731 with a polymeric backbone, as taught by Dover, to increase the strength of the weatherseal. [Paper 20050118, page 7]

This rejection relies upon, at least the following assumptions:

1. a polymeric backbone is stronger than a sheet metal profile; and

2. the Dover polymeric backbone is stronger than the EP '731 sheet metal profile.

No basis has been provided to support the assertion that a polymeric backbone is stronger than a sheet metal profile. Absent some support, the bare assertion that a polymeric backbone is stronger than a sheet metal profile is insufficient to sustain a rejection.

No basis has been provided to support the assertion that Dover polymeric backbone is stronger than the EP '731 sheet metal profile. That is:

1. no portion of EP '371 has been cited to identify or quantify the strength of the sheet metal profile; and
2. no portion of Dover has been cited to identify or quantify the strength of the polymeric backbone.

Therefore, no basis has been provided to support the assertion that Dover polymeric backbone is stronger than the EP '731 sheet metal profile.

Further, no comparison of the relative strengths of the polymeric backbone of Dover and the sheet metal profile of EP '371 has been provided.

Therefore, the asserted rejection cannot be sustained.

Also, no need or basis for a stronger backbone has been provided. That is, no portion of references has been cited to suggest a sheet metal profile provides inadequate strength in the weatherseal.

The reliance upon Dover selectively picks and chooses only portions of the reference and does not consider the reference as a whole. For example, the Dover backbone includes an elastic joint 44. Specifically,

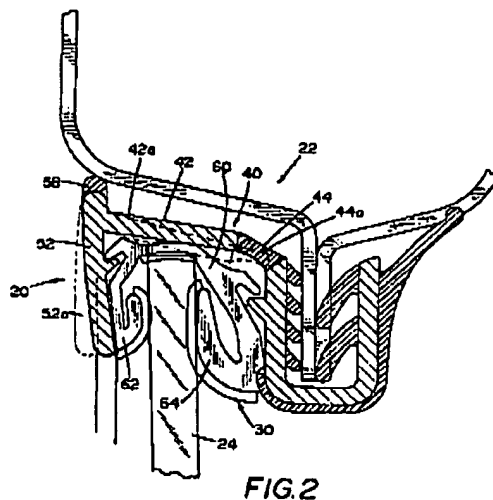


FIG. 2


In Dover, the elastic joint 44 is described as follows:

The elastic joint 44 can also be considered to be a flexible hinge about which the base 40 and leg 36 rotate. (Col. 3, lines 48-49)

Therefore, the asserted rejections in view of EP '371 and Dover cannot be sustained.

Applicant respectfully submits all the pending claims, Claims 1-30 and 40-50, are in condition for allowance; and such action is earnestly solicited. If, however, the examiner believes that any further issues remain, he is cordially invited to contact the undersigned so that such matter can be promptly resolved.

Respectfully submitted,

  
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